

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

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ELAINE CHAO, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR,	
Plaintiff,	
v.	
MODERN CONTINENTAL CONSTRUCTION COMPANY,	
Defendant.	

Civ. No.: 04 11982 RCL

**ANSWER OF DEFENDANT MODERN CONTINENTAL CONSTRUCTION COMPANY  
TO COMPLAINT**

Defendant Modern Continental Construction Co., Inc.,<sup>1</sup> for its answer, states as follows:

I.

States that the allegation in Paragraph I of the complaint is a conclusion of law to which no response is required.

II.

Admits the allegation in Paragraph II of the complaint.

III.

States that the allegation in Paragraph III of the complaint is a conclusion of law to which no response is required.

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<sup>1</sup> Defendant is improperly named in the Complaint.

IV.

States that the allegations in Paragraph IV of the complaint are conclusions of law to which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph IV of the complaint

V.

Denies the allegation in Paragraph V of the complaint.

VI.

Denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph VI of the complaint.

VII.

States that the allegations in Paragraph VII of the complaint are conclusions of law to which no response is required. To the extent a response is required, Defendant denies the allegation in Paragraph VII of the complaint.

VIII.

States that the allegations in Paragraph VIII of the complaint are conclusions of law to which no response is required. To the extent a response is required, Defendant denies the allegation in Paragraph VIII of the complaint.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

The Complaint fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

The Complaint is barred, in whole or in part, by the doctrines of laches, waiver, estoppel and/or unclean hands.

**THIRD AFFIRMATIVE DEFENSE**

Every action Defendant took with respect to Thorndike's employment was taken for legitimate business reasons.

**FOURTH AFFIRMATIVE DEFENSE**

Plaintiff's Complaint is barred in whole or in part by the failure to exhaust administrative remedies.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred in whole or in part by his failure to effectively mitigate her damages.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiff would have been terminated in the absence of alleged protected conduct.

WHEREFORE, the Defendant prays that this Court:

1. Enter judgment for Defendant on all claims;
2. Award Defendant their costs; and
3. Grant any further relief as the Court may find just and proper.

Respectfully submitted,

MODERN CONTINENTAL CONSTRUCTION

By its attorneys,

/s/Stephen T. Paterniti  
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Dated: November 24, 2004